

MINUTES

THE REGULAR MEETING OF THE BOARD OF ALDERMEN CITY OF BRANSON, MISSOURI January 25, 2011

INTRODUCTORY

The Board of Aldermen of the City of Branson, Missouri met in regular session in the Council Chambers of the City Hall on January 25, 2011, at 7:00 p.m. Mayor Pro Tem Davis called the meeting to order with the "Pledge of Allegiance" and Jerry Adams gave the invocation.

ROLL CALL

City Clerk Westfall called roll: Mayor Pro Tem Davis presiding, Mike Booth, Sandra Williams, Bob Simmons, and Rick Todd present. Absent: Mayor Presley and Cris Bohinc.

Also present from the City were: City Administrator Dean Kruithof, City Attorney William Duston, City Clerk Lisa Westfall, Communications Director Jerry Adams, Information Technology Director D.J. Cline, Public Works Director & City Engineer David Miller, Parks and Recreation Director Cindy Shook, Economic Development Director Garrett Anderson, Planning and Development Director Jim Lawson, Police Chief Carroll McCullough, Finance and Personnel Director Lori Helle and Utilities Director Mike Ray.

PUBLIC COMMENT

Mayor Pro Tem Davis began the Public Comments section of the Board of Aldermen meeting by stating the Board would hear citizens that signed the Speaker's Sheet in the order they are listed on the sheet.

Gail Myer, 365 Whisper Ridge, Branson, Missouri, stated as a representative of the Branson Lakes Area Lodging Association (BLALA), he wanted to clarify BLALA's position in regard to the Branson Airport. He stated BLALA's original position was they were grateful for the care and effort put forth by the City for a conservative approach to making the budget and felt the airport to be an important factor in the community's efforts to improve the economic development of the Branson Lakes area. They encouraged both parties to work together to reach an agreement to avoid increased costs, negative publicity and litigation. Mr. Myer stated BLALA has concluded, upon attending the study session and listening to the Airport representative's report and presentation, that the City's contribution is not significant to the success of the airport and BLALA feels it is a good business decision and good policy that no city services should be sacrificed to pay the airport at this point in time.

CONSENT AGENDA

Mayor Pro Tem Davis asked if there were any citizens that had any items they wished to have removed from the Consent Agenda for further discussion. Hearing none, Mayor Pro Tem Davis asked if any member of the Board had any items they wished to have removed from the Consent Agenda. Hearing none, Mayor Pro Tem Davis asked City Clerk Westfall to read the items on the Consent Agenda as amended. City Clerk Westfall read the following Consent Agenda items by title.

Approval of the Board of Aldermen Minutes:

- a) January 6, 2011 Study Session
- b) January 11, 2011 Special Meeting
- c) January 11, 2011 Regular Meeting

Acknowledge Receipt of Minutes:

- a) Advisory Park Board meeting of November 16, 2011

BILL NO. 3891

Ord. No. 2011-005 Approving the annexation of 412 Owen Lane, Branson, Missouri.

Final reading of Bill No. 3891, an ordinance approving the annexation of 412 Owen Lane, Branson, Missouri, was read by title by City Clerk Westfall. Voting aye: Davis, Booth, Williams, Simmons and Todd. Nays: none. Absent: Bohinc. Motion carried. Ordinance No. 2011-005 was duly enacted.

BILL NO. 3892

Ord. No. 2011-015 Approving the annexation of 101 Covered Bridge Drive, Branson, Missouri.

Final reading of Bill No. 3892, an ordinance approving the annexation of 101 Covered Bridge Drive, Branson, Missouri, was read by title by City Clerk Westfall. Voting aye: Davis, Booth, Williams, Simmons and Todd. Nays: none. Absent: Bohinc. Motion carried. Ordinance No. 2011-015 was duly enacted.

BILL NO. 3893

Ord. No. 2011-016 Approving an agreement with Tri-States Utility for sewer billing services of city sewer customers connected to Tri-States Utility Water System.

Final reading of Bill No. 3893, an ordinance approving an agreement with Tri-States Utility for sewer billing services of city sewer customers connected to Tri-States Utility Water System and authorizing the Mayor to execute the contract was read by title by City Clerk Westfall. Voting aye: Davis, Booth, Williams, Simmons and Todd. Nays: none. Absent: Bohinc. Motion carried. Ordinance No. 2011-016 was duly enacted.

BILL NO. 3894

Ord. No. 2011-017 Accepting the proposal of Tri-Lakes Ford pertaining to the purchase of vehicles for the Police Department.

Final reading of Bill No. 3894, an ordinance accepting the proposal of Tri-Lakes Ford pertaining to the purchase of vehicles for the Police Department and authorizing the Mayor to execute the contract was read by title by City Clerk Westfall. Voting aye: Davis, Booth, Williams, Simmons and Todd. Nays: none. Absent: Bohinc. Motion carried. Ordinance No. 2011-017 was duly enacted.

BILL NO. 3895

Ord. No. 2011-018 Accepting the proposal of Brenntag Mid South, Inc. for potassium permanganate used in the water and wastewater treatment facilities.

Final reading of Bill No. 3895, an ordinance accepting the proposal of Brenntag Mid South, Inc. for potassium permanganate used in the water and wastewater treatment facilities and authorizing the Mayor to execute the contract was read by title by City Clerk Westfall. Voting aye: Davis, Booth, Williams, Simmons and Todd. Nays: none. Absent: Bohinc. Motion carried. Ordinance No. 2011-018 was duly enacted.

BILL NO. 3896

Ord. No. 2011-019 Accepting the proposal of Custom Products Corporation pertaining to signage supplies.

Final reading of Bill No. 3896, an ordinance accepting the proposal of Custom Products Corporation pertaining to signage supplies and authorizing the Mayor to execute the contract was read by title by City Clerk Westfall. Voting aye: Davis, Booth, Williams, Simmons and Todd. Nays: none. Absent: Bohinc. Motion carried. Ordinance No. 2011-019 was duly enacted.

BILL NO. 3897

Ord. No. 2011-020 Accepting the proposal of Ibis Tek Apparel LLC pertaining to signage supplies.

Final reading of Bill No. 3897, an ordinance accepting the proposal of Ibis Tek Apparel LLC pertaining to signage supplies and authorizing the Mayor to execute the contract was read by title by City Clerk Westfall. Voting aye: Davis, Booth, Williams, Simmons and Todd. Nays: none. Absent: Bohinc. Motion carried. Ordinance No. 2011-020 was duly enacted.

BILL NO. 3898

Ord. No. 2011-021 Accepting the proposal of Key Equipment & Supply Co. pertaining to an Elgin Pelican Street Sweeper.

Final reading of Bill No. 3898, an ordinance accepting the proposal of Key Equipment & Supply Co. pertaining to an Elgin Pelican Street Sweeper and authorizing the Mayor to execute the contract was read by title by City Clerk Westfall. Voting aye: Davis, Booth, Williams, Simmons and Todd. Nays: none. Absent: Bohinc. Motion carried. Ordinance No. 2011-021 was duly enacted.

City Clerk Westfall stated that concludes the reading of the Consent Agenda. Mayor Pro Tem Davis opened the floor for a motion to approve all items on the Consent Agenda. Alderman Simmons moved to approve, seconded by Alderman Williams. Voting aye: Davis, Booth, Williams, Simmons and Todd. Nays: none. Absent: Bohinc. Motion carried.

REGULAR AGENDA

BILL NO. 3881

SUBSTITUTED Amending Chapter 58 of the Branson Municipal Code pertaining to nuisances. (Postponed from the January 11, 2011)

Final Reading of Bill No. 3881, an ordinance amending Chapter 58 of the Branson Municipal Code pertaining to nuisances, (Postponed from the January 11, 2011) was read by title by City Clerk Westfall. Mayor Pro Tem Davis stated this Bill was postponed at the January 11, 2011 meeting in order to be brought back with revisions. Bill No. 3881 has already had its final reading, motion and second. Due to the number of changes, a substitute bill was drafted. This will be introduced as our next item. Alderman Todd moved to have Bill No. 3899 be considered as a substitute bill and replacement for Bill

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No. 3881 and that Bill No. 3881 be removed from the agenda, seconded by Alderman Simmons. Mayor Pro Tem Davis asked for anyone in the audience wishing to speak regarding this matter. Hearing none, Mayor Pro Tem Davis asked for comments from the Board. No discussion. Voting aye: Davis, Booth, Williams, Simmons and Todd. Nays: none. Absent: Bohinc. Motion carried. City Clerk Westfall stated the record will reflect that Bill No. 3881 has been replaced with Substitute Bill No. 3899.

BILL NO. 3899

SUBSTITUTE

Amending Chapter 58 of the Branson Municipal Code pertaining to nuisances.

First Reading of Substitute Bill No. 3899, an ordinance amending Chapter 58 of the Branson Municipal Code pertaining to nuisances was read by title by City Clerk Westfall and a staff report was presented by Administrator Kruithof and Jim Lawson. Discussion. Mayor Pro Tem Davis asked for a motion approving Substitute Bill No. 3899. Alderman Williams so moved, seconded by Alderman Simmons. Mayor Pro Tem Davis asked for anyone in the audience wishing to speak regarding this matter. Mark Weisz, 386 Dalton Drive, Branson, Missouri, thanked staff for making changes to the ordinance, and stated the word dripline appears on the definition page for the first time and was not previously reviewed. Mr. Weisz commented the ordinance should protect private property rights and should not impose regulations on neighbors and said he believes this could potentially cause other issues. Bob Huels, 500 W. Main Street, Branson Missouri, asked if a paved parking area within a dripline would pose a problem and asked if this would affect commercial property as well as residential property. Mayor Pro Tem Davis asked for comments from the Board. Discussion. Voting aye: Davis, Booth, Williams, Simmons and Todd. Nays: none. Absent: Bohinc. Motion carried.

BILL NO. 3900

POSTPONED

Amending Chapter 46, Sections 46-551 and 46-555 of the Branson Municipal Code pertaining to containers.

First Reading of Bill No. 3900, an ordinance amending Chapter 46, Sections 46-551 and 46-555 of the Branson Municipal Code pertaining to containers was read by title by City Clerk Westfall and a staff report was presented by Administrator Kruithof. Discussion. Mayor Pro Tem Davis asked for a motion approving Bill No. 3900. Alderman Williams moved to postpone Bill No. 3900 to the February 8, 2011, Regular Board of Aldermen meeting to have the first reading and allow staff to re-word changes, seconded by Alderman Todd. Mayor Pro Tem Davis asked for anyone in the audience wishing to speak regarding the postponement of Bill No. 3900. Hearing none, Mayor Pro Tem Davis asked for comments from the Board regarding the postponement. No discussion. Mayor Pro Tem Davis called for a vote on the postponement of Bill No. 3900. Voting aye: Davis, Booth, Williams, Simmons and Todd. Nays: none. Absent: Bohinc. Motion carried.

UPDATE BY LORI HELLE ON 2010 YEAR-END FINANCIAL REPORT.

Administrator Kruithof provided the introduction and a presentation was made by Lori Helle on the 2010 year-end financial report. Mayor Pro Tem Davis asked for anyone in the audience wishing to speak regarding this matter. Hearing none, Mayor Pro Tem Davis asked for comments or questions from the Board. Discussion.

BILL NO. 3901

Approving a Planned Development amendment to PD 2005-003 Audubon Place and Covered Bridge Resort.

First Reading of Bill No. 3901, an ordinance approving a Planned Development amendment to PD 2005-003 Audubon Place and Covered Bridge Resort was read by title by City Clerk Westfall and a staff report was presented by Jim Lawson. Mayor Pro Tem Davis asked for a motion approving Bill No.

3901. Alderman Williams so moved, seconded by Alderman Simmons. Mayor Pro Tem Davis asked for anyone in the audience wishing to speak regarding this matter. Michael Pinkley, 159 Turtle Creek Drive, Branson, Missouri, commented he supported this amendment and recognized Mr. Yung and staff for crafting a quality amendment. Bill Yung stated he agreed to remove the parking and mentioned the covered parking is not within the easement, but it is on private property and stated he was uncertain at what point in time it will be built. Mr. Yung mentioned that instead of using gravel for the open parking, dust-free crushed asphalt will be used. Mayor Pro Tem Davis asked for comments from the Board. Discussion. Voting aye: Davis, Booth, Williams, Simmons and Todd. Nays: none. Absent: Bohinc. Motion carried.

BILL NO. 3902

Approving enrollment with Microsoft for Enterprise Licensing.

First Reading of Bill No. 3902, an ordinance approving enrollment with Microsoft for Enterprise Licensing and authorizing the Mayor to execute the Enrollment Agreement was read by title by City Clerk Westfall and a staff report was presented by Administrator Kruithof and DJ Cline. Discussion. Mayor Pro Tem Davis asked for a motion approving Bill No. 3902. Alderman Smmons so moved, seconded by Alderman Todd. Mayor Pro Tem Davis asked for anyone in the audience wishing to speak regarding this matter. Hearing none, Mayor Pro Tem Davis asked for comments from the Board. No Discussion. Voting aye: Davis, Booth, Williams, Simmons and Todd. Nays: none. Absent: Bohinc. Motion carried.

BILL NO. 3903

POSTPONED

Accepting the proposal of The World Wide Technology pertaining to computer software for the City of Branson.

First Reading of Bill No. 3903, an ordinance accepting the proposal of The World Wide Technology pertaining to computer software for the City of Branson and authorizing the Mayor to execute the contract was read by title by City Clerk Westfall and a staff report was presented by Administrator Kruithof and DJ Cline. Alderman Williams moved to postpone the First Reading of Bill No. 3903 to the February 8, 2011, Regular Board of Aldermen meeting, seconded by Alderman Booth. Mayor Pro Tem Davis asked for anyone in the audience wishing to speak regarding the postponement of Bill No. 3903. Hearing none, Mayor Pro Tem Davis asked for comments from the Board regarding the postponement. No Discussion. Mayor Pro Tem Davis called for a vote on the postponement of Bill No. 3903. Voting aye: Davis, Booth, Williams, Simmons and Todd. Nays: none. Absent: Bohinc. Motion carried.

Alderman Simmons left the meeting at 8:30 p.m.

BILL NO. 3904

Accepting the proposal of American Concrete Products pertaining to the concrete to be used at the Branson Lakeside RV Park.

First Reading of Bill No. 3904, an ordinance accepting the proposal of American Concrete Products pertaining to the concrete to be used at the Branson Lakeside RV Park and authorizing the Mayor to execute the contract was read by title by City Clerk Westfall and a staff report was presented by Cindy Shook. Discussion. Mayor Pro Tem Davis asked for a motion approving Bill No. 3904. Alderman Booth so moved, seconded by Alderman Todd. Mayor Pro Tem Davis asked for anyone in the audience wishing to speak regarding this matter. Hearing none, Mayor Pro Tem Davis asked for comments from the Board. No discussion. Voting aye: Davis, Booth, Williams and Todd. Nays: none. Absent: Bohinc and Simmons. Motion carried.

Alderman Simmons joined the meeting at 8:34 p.m.

RESOLUTION NO.

2011-R003

Approving the City of Branson's Legislative Agenda for the year 2011.

A Resolution approving the City of Branson's Legislative Agenda for the year 2011 was read by title by City Clerk Westfall and a staff report was presented by Administrator Kruithof. Mayor Pro Tem Davis asked for a motion adopting the resolution. Alderman Williams moved to adopt, seconded by Alderman Simmons. Mayor Pro Tem Davis asked for anyone in the audience wishing to speak regarding this matter. Mark Weisz, 386 Dalton Drive, Branson, Missouri, expressed his concern with a few items he feels should be changed or removed. Mr. Weisz commented the item in the legislative agenda which states "uncontrolled development at the unincorporated fringes of cities is detrimental to health, safety and orderly urban development. Branson supports legislation that would give cities the ability to exercise extra territorial powers of planning, zoning, enforcement of building codes and regulation of subdivisions within adjacent unincorporated areas." Mr. Weisz commented he believes this is control without representation and is a bad thing and encouraged Taney County to pass and enact appropriate planning and zoning rules and regulations. Mr. Weisz feels it is unfair that the people the City wants to have control and enforcement over cannot vote on the issues and aren't part of the City, and is inappropriate to expect county residents to abide by the city's rules instead of the rules of the county. Mr. Weisz urged the Board to make an amendment to remove the item that states "the City supports legislation allowing cities to annex islands which are properties inside a city's limits and surrounded by city property on all sides. Cities need the ability to annex islands after proper notification and majority approval by city council." Mr. Weisz stated he believes this is a problem since all it would take to annex an island is a majority vote by the Board and feels that annexation should be voluntary by property owners or by annexation initiated by the city requiring a vote of the citizens. He questioned the first item under Local Control which states, "Branson opposes a reduction of local regulatory authority over developers" and he asked why this phrase is in the legislative agenda. Dwayne Gerken, 480 Woodsong Lane, Branson, Missouri, stated he opposes the involuntary annexations of islands as he feels it should be a decision made by a vote of the people rather than a majority vote by the Board and requested this item be taken out of the Branson Legislative Agenda. Mayor Pro Tem Davis asked for comments from the Board. Discussion. Bob Huels, 500 W. Main Street, Branson, Missouri, stated he feels it is unfair to force people to annex by a majority vote of the Board and commented some people have chosen to not annex their signs and should have the option to de-annex their whole property. Alderman Todd moved to amend Resolution No. 2011-R003 by removing the sentences "We support legislation allowing cities to annex islands which are properties inside a city's limits and surrounded by city property on all sides. Cities need the ability to annex islands after proper notification and the majority approval by city council," seconded by Alderman Booth. Jerry Emory, 236 Shepherd of the Hills Expressway, Branson, Missouri, stated there needs to be a system in place to protect these islands from potential misuse and suggested an agreement between the City and the county. Discussion. Alderman Williams moved to amend Alderman Todd's motion, to direct staff to consult with the city's consulting firm and report their recommendations of how the City should handle this issue to the Board, seconded by Alderman Todd. Mayor Pro Tem Davis asked for any comments from the audience regarding the amendment to the amendment of Resolution No. 2011-R003. Mark Weisz, 386 Dalton Drive, Branson, Missouri, stated he is in favor of removing the sentences and reminded the Board that when staff consults with the consulting firm to inform them that there are other methods of annexing properties into the city's limits which are already in place in Missouri. Mr. Weisz added that the city should be considerate of the people who live in the small tracts of un-annexed land. Mayor Pro Tem Davis asked for comments from the Board regarding the amendment to the amendment of Resolution No. 2011-R003. No discussion. Mayor Pro Tem Davis called for a vote on the amendment to the amendment of Resolution No. 2011-R003. Voting Aye: Davis, Booth, Williams, Simmons and Todd. Nays: none. Absent: Bohinc. Motion carried. Mayor Pro Tem Davis called for vote on the amendment to the resolution as amended. Voting aye: Davis, Booth, Williams, Simmons and Todd. Nays: none. Absent: Bohinc. Motion carried. Mayor Pro Tem Davis called for a vote on Resolution No. 2011-R003 as amended. Voting aye: Davis, Booth, Williams, Simmons and Todd. Nays: none. Absent: Bohinc. Motion carried. Resolution No. 2011-R003 was adopted as amended.

RESOLUTION NO.**2011-R004****Adopting the Branson/Lakes Area Legislative Partnership's 2011 Legislative Priorities.**

A Resolution adopting the Branson/Lakes Area Legislative Partnership's 2011 Legislative Priorities was read by title by City Clerk Westfall and a staff report was presented by Administrator Kruithof. Discussion. Mayor Pro Tem Davis asked for a motion adopting the resolution. Alderman Williams moved to adopt, seconded by Alderman Booth. Mayor Pro Tem Davis asked for anyone in the audience wishing to speak regarding this matter. John Babcock, 225 Tyler Street, Branson, Missouri, stated he opposes the alleged fair tax, and commented he approves this item on the agenda. Mayor Pro Tem Davis asked for comments from the Board. No discussion. Mayor Pro Tem Davis called for the vote on the Resolution. Voting aye: Davis, Booth, Williams, Simmons and Todd. Nays: none. Absent: Bohinc. Motion carried. Resolution No. 2011-R004 was adopted.

RESOLUTION NO.**2011-R005****Supporting the display of the national motto "In God We Trust" at Branson City Hall.**

A Resolution supporting the display of the national motto "In God We Trust" at Branson City Hall was read by title by City Clerk Westfall and a staff report was presented by Administrator Kruithof. Mayor Pro Tem Davis asked for a motion adopting the resolution. Alderman Williams moved to adopt, seconded by Alderman Todd. Mayor Pro Tem Davis asked for anyone in the audience wishing to speak regarding this matter. Peter James, 707 Brown Street, Branson, Missouri, commented there is the potential to offend citizens of Branson who do not hold the same religious views as the national motto as presented by Mr. Dunn at the Study Session. Greg Davis, 572 Eagle Rock Rd., Branson, Missouri, stated he believes there could be potential legal issues if the national motto is displayed in Branson City Hall. Mr. Davis referred to Amendment I of the United States Constitution which prohibits the United States Congress from enacting any law that establishes an official sponsorship of religion by the government and referred to the *Gitlow v. New York* case which applies the first amendment of the constitution to each state, including local governments. Mr. Davis stated his main concern with this issue is that the national motto as presented by Mr. Dunn of In God We Trust refers to Abrahamic religions and would not be considered ceremonial deism. Mr. Davis commented he believes the first and second whereas on Resolution No. 2011-005 to be inaccurate compared to the historical accounts which he read to the Board. Mayor Pro Tem Davis asked for comments from the Board. Discussion. Mayor Pro Tem Davis called for the vote on the Resolution. Voting aye: Davis, Booth, Williams, Simmons and Todd. Nays: none. Absent: Bohinc. Motion carried. Resolution No. 2011-R005 was adopted.

MAYOR/ALDERMEN/ADMINISTRATOR'S REPORTS

Alderman Simmons commented he was impressed by the meeting tonight with the different opinions and comments and appreciated the participation.

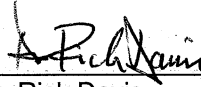
Alderman Todd complimented Mayor Pro Tem Davis for facilitating the meeting.

Administrator Kruithof mentioned tomorrow is the Legislative Salute in Jefferson City, Missouri and stated he was attending with Alderman Williams, Lisa Westfall, Garrett Anderson and Jerry Adams to represent the City.

Mayor Pro Tem Davis thanked everyone for their patience with the meeting and stated he agreed with Alderman Simmons' comments. Mayor Pro Tem Davis thanked Administrator Kruithof for his professionalism and thanked City Attorney William Duston for all he does for the city and his professional comments at the meeting.

ADJOURN

Mayor Pro Tem Davis asked for a motion to adjourn. Alderman Booth moved to adjourn, seconded by Alderman Simmons. Voting aye: Davis, Booth, Williams, Simmons and Todd. Nays: none. Absent: Bohinc. Motion carried. Meeting adjourned at 9:42 p.m.



Dr. Rick Davis
Mayor Pro Tem

Lisa K Westfall
City Clerk